THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15893 of 2006

30th August 2006

Between:

1. The Government of Andhra Pradesh, rep.by its Secretary, PR & RD Dept., Secretariat, Hyderabad.

And one other.

...PETITIONERS

AND

B.Janaki Rao, Presently working as Assistant Executive Engineer, RWS (PR) Dumbriguda, RWS Division, Visakhapatnam District.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15893 of 2006

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal, Hyderabad ('the Tribunal' for brevity) in V.M.A.No.527 of 2006 in O.A.No.3996 of 2005 dated 06.07.2006; the present Writ Petition is filed. The Tribunal, by its order dated 06.07.2006, took note of the contents of the counter affidavit wherein it was stated that the enquiry against the respondent-applicant had not been completed, that the applicant had submitted his explanation to the charge memo dated 01.06.2002 requesting for supply of certain documents and that the applicant had submitted second statement on 14.07.2005, but the statement was referred to the Government for examination and that the same was pending. Upon taking note of the aforesaid averments, the Tribunal held that the delay in completion of disciplinary proceedings could not be attributed to the applicant, when the required documents are not made available to enable him to give a written statement of

facts. The learned Government Pleader for Services II would, however, submit that since the written statement of defence was submitted by the respondent-applicant only on 14.03.2005, the petitioners herein could not be blamed or held to have unnecessarily delayed in completion of the disciplinary proceedings.

Sri M.Ratna Reddy, learned counsel for the respondent, would submit that the charge relates to the period 1986 – 1992 and that consideration of the respondent-applicant's case for promotion has been repeatedly denied. Learned counsel would submit that, under G.O.Ms.No.257 GAD dated 10.06.1999, the respondent-applicant was entitled to be considered for promotion since the said G.O. required cases of employees, against whom disciplinary enquiry proceedings were pending for more than two years, also to be considered for promotion. Learned counsel would submit that since the Tribunal has merely directed that the petitioner's case be considered for promotion, the order of the Tribunal does not call for interference. Learned counsel also placed reliance on the judgments of the Apex Court in ***New Bank of India v. N.P.Sehgal*** [1] and ***State of Punjab v. Chaman Lal Goyal*** [2].

In ***Chaman Lal Goyal***'s case, the Supreme Court held that the question as to whether delay in completion of disciplinary proceedings was on account of the Government or on account of the employee were all factors which were required to be considered in the totality of the circumstances of the case and that, after weighing the pros and cons, Courts should take a decision as to whether disciplinary proceedings should be permitted to be continued and as to whether an employee should be considered for promotion to a higher post pending disciplinary proceedings.

In the case on hand, while the Tribunal has held that the delinquent employee was not responsible for the delay, the order is silent about various other factors including the applicability of G.O.Ms.No.257 GAD dated 10.06.1999. In any event, the direction to promote the respondent-applicant could not have been passed by way of an interim order. It is, therefore, necessary that the O.A. itself be heard early since the respondent-applicant is said to have been denied promotion on more than one occasion earlier. Both the learned Government Pleader and Sri M.Ratna Reddy would agree that, since the pleadings are complete, the main O.A. itself could be expeditiously

disposed of. There shall be a direction to the Tribunal to hear and dispose of the O.A. as expeditiously as possible, within a period of four {4} weeks from the date of receipt of a copy of this order.

The order of the Tribunal in V.M.A.No.527 of 2006 in O.A.No.3996 of 2005 dated 06.07.2006 is set aside and the Writ Petition is accordingly disposed of. No costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

30th August 2006
RRB

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[1] 1991 (2) SLR

[2] (1995) 2 SCC 570